



JUDICIAL SYSTEM MONITORING PROGRAMME  
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

**Press Release**

**Oekusi District Court**

**04 March 2019**

**The Oekusi District Court for the first time applies a suspended prison sentence with a condition to make a public apology in a case involving the mistreatment of a spouse**

On 25 February 2019 the Oekusi District Court imposed a prison sentence of 3 years, suspended for 4 years after finding a defendant guilty of committing the crime of maltreatment against his wife. The court also ordered the convicted person to apologise to the victim in front of the local authorities in the presence of family members of the two parties within two months. Afterwards, a written record of the apology must be presented to the court.

“This is a positive change in the Oekusi District Court, even though it has taken a long time, because it is the first time the court has introduced a suspended prison sentence with a condition ordering the defendant to apologise to the victim in front of family members in a case of gender based violence,” said the Executive Director of JSMP, Luis de Oliveira Sampaio.

Previously, on 22 January 2018, JSMP also noted that the Oekusi District Court applied rules of conduct in a case of simple offences against physical integrity characterized as domestic violence where a 2 year prison sentence was suspended for 2 years and the convicted person was ordered to pay court costs of US\$ 30. The court also applied rules of conduct for the defendant to periodically report to the court once a month, in the first week, for the duration of the suspended sentence.

The provision to include the condition of apologising to the victim in public is provided for in Article 69.2 (b) of the Penal Code on suspension of execution of a prison sentence with conditions which states that the convicted person must publicly make an apology to the victim.

JSMP considers the application of the additional condition in the form of a public apology to the victim to be a way of correcting the behaviour of the convicted person and educating the defendant not to repeat his behaviour in the future. In addition it could be used as a reference and lesson for other families to learn that domestic violence is a crime and that it will not be tolerated in society. Even though the convicted person and the victim are no longer living together as a family, the application of the additional condition together with the suspended sentence is an important step in strengthening the application of criminal law in practice.

JSMP recommends for the courts to continue using additional rules in suspended sentences in cases involving gender based violence in the future to teach defendants to avoid violence and to

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promote families living without violence and with mutual respect.

In this case, the public prosecutor alleged that on 23 July 2017 the defendant kicked the victim once on her right ear and the victim fell to the ground and lost consciousness.

Previously in June 2017 the defendant kicked the victim on her right thigh and caused the victim to fall to the ground and pulled the victim by the hair and dragged her inside the house. The defendant also threatened the victim by saying “one day you will die”. In addition, on April 2017 the defendant kicked the victim once in the head. The case included photographs from the police. The prosecutor also alleged that before these assaults the defendant and the victim always argued and the defendant wanted to expel the victim from the house but the victim did not want to leave the house.

The public prosecutor alleged that the defendant violated Article 154 of the Penal Code on mistreatment of a spouse that carries a maximum penalty of 2-6 years in prison.

During the production of evidence the defendant denied all of the facts, but the victim maintained the facts set out in the indictment and stated that in addition to committing violence against the victim, the defendant always brought other women into the home.

In his final recommendations the prosecutor maintained the charges and requested for the court to sentence the defendant based on the severity of the crime. The public defender asked the court to acquit the defendant from the charge of the prosecutor because the defendant stated that he did not commit these crimes. However, if the court decides otherwise, then the defence requests for the court to uphold justice for the defendant.

After evaluating all of the facts, the court found the defendant guilty of committing the crime based on the facts set out in the indictment. The court found that the defendant committed these acts with the intention of separating from the victim. Therefore, the defendant and victim have separated.

Based on the facts that were proven, the court sentenced the defendant to 3 years in prison, suspended for 4 years. The court also applied an additional condition for the defendant to apologise to the victim in front of the local authorities in the presence of members of the two families within two months and then to present a written record of the apology to the court.

The court emphasised that the convicted person and the victim are now separated, but the convicted person has an obligation to apologise to the victim for the mistreatment he committed against the victim in order to educate the defendant and society in general not to repeat such acts against another person.

This case was registered by the court as Case No. 0016/17.OEPSB. The trial was presided over by a panel of judges comprising João Ribeiro, Sribuana da Costa and Eusébio Victor Xavier who were accompanied by Alexandre E. Brige Viega as the Judge Mentor. The public prosecution service was represented by Mateus Nesi and the defendant was represented by public defender Calisto Tout.

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